

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 480

BY SENATORS SMITH, PHILLIPS, AND CLEMENTS

[Introduced January 25, 2022; referred
to the Committee on Energy, Industry, and Mining;
and then to the Committee on Finance]

1 A BILL to amend and reenact §22-6-2 and §22-6-29 of the Code of West Virginia, 1931, as
2 amended, relating to the Office of Oil and Gas of the Department of Environmental
3 Protection; establishing annual oversight fee for wells producing more than 10,000 cubic
4 feet of gas per day; and providing that those fees, if not used for other purposes, may be
5 moved to the Oil and Gas Reclamation Fund.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS; ADMINISTRATION;
ENFORCEMENT.**

**§22-6-2. Secretary – powers and duties generally; department records open to public;
inspectors.**

1 (a) The secretary shall have as his or her duty the supervision of the execution and
2 enforcement of matters related to oil and gas set out in §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-
3 1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code.

4 (b) The secretary is authorized to propose rules for legislative approval in accordance with
5 the provisions of §29A-3-1 *et seq.* of this code necessary to effectuate the above stated purposes.

6 (c) The secretary shall have full charge of the oil and gas matters set out in §22-6-1 *et*
7 *seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.*
8 of this code. In addition to all other powers and duties conferred upon him or her, the secretary
9 shall have the power and duty to:

10 (1) Supervise and direct the activities of the Office of Oil and Gas and see that the
11 purposes set forth in §22-6-2(a) and §22-6-2(b) of this code are carried out;

12 (2) Determine the number of supervising oil and gas inspectors and oil and gas inspectors
13 needed to carry out the purposes of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1
14 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code and appoint them as such. All
15 appointees must be qualified civil service employees, but no person is eligible for appointment

16 until he or she has served in a probationary status for a period of six months to the satisfaction of
17 the secretary;

18 (3) Supervise and direct such oil and gas inspectors and supervising inspectors in the
19 performance of their duties;

20 (4) Make investigations or inspections necessary to ensure compliance with and to enforce
21 the provisions of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et*
22 *seq.*, and §22-21-1 *et seq.* of this code;

23 (5) Prepare report forms to be used by oil and gas inspectors or the supervising inspector
24 in making their findings, orders, and notices upon inspections made in accordance with §22-6-1
25 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.*
26 of this code;

27 (6) Employ a hearing officer and such clerks, stenographers, and other employees as may
28 be necessary to carry out his or her duties and the purposes of the Office of Oil and Gas and fix
29 their compensation;

30 (7) Hear and determine applications made by owners, well operators, and coal operators
31 for the annulment or revision of orders made by oil and gas inspectors or the supervising
32 inspector, and to make inspections, in accordance with the provisions of §22-6-1 *et seq.*, §22-6A-
33 1 *et seq.*, §22-8-1 *et seq.*, and §22-9-1 *et seq.* of this code;

34 (8) Cause a properly indexed permanent and public record to be kept of all inspections
35 made by the secretary or by oil and gas inspectors or the supervising inspector;

36 (9) Conduct research and studies as the secretary shall deem necessary to aid in
37 protecting the health and safety of persons employed within or at potential or existing oil or gas
38 production fields within this state, to improve drilling and production methods, and to provide for
39 the more efficient protection and preservation of oil and gas-bearing rock strata and property used
40 in connection therewith;

41 (10) Collect a permit fee of \$400 for each permit application filed other than an application

for a deep well, horizontal wells regulated pursuant to §22-6A-1 *et seq.*, of this code, or a coalbed methane well; and collect a permit fee of \$650 for each permit application filed for a deep well: *Provided*, That no permit application fee is required when an application is submitted solely for the plugging or replugging of a well, or to modify an existing application for which the operator previously has submitted a permit fee under this section. All application fees required hereunder are in lieu of and not in addition to any fees imposed under §22-11-1 *et seq.* of this code relating to discharges of stormwater but are in addition to any other fees required by the provisions of §22-6-1 *et seq.* of this code: *Provided, however*, That upon a final determination by the United States Environmental Protection Agency regarding the scope of the exemption under ~~section~~ Section 402(l)(2) of the federal Clean Water Act (33 U.S.C. 1342(l)(2)), which determination requires a “national pollutant discharge elimination system” permit for stormwater discharges from the oil and gas operations described therein, any permit fees for stormwater permits required under §22-11-1 *et seq.* of this code for such operations may not exceed \$100;

(11) On or after the July 1 each year, collect from the responsible operator of each well subject to §22-6-1 *et seq.* or §22-6A-1 *et seq.* of this code that has not yet been plugged, and that produces 10,000 cubic feet of gas per day or more as reported to the State Tax Commissioner in the previous reporting year, an annual oversight fee of \$100 for each well;

~~(11)~~ (12) Perform all other duties which are expressly imposed upon the secretary by the provisions of this chapter;

~~(12)~~ (13) Perform all duties as the permit issuing authority for the state in all matters pertaining to the exploration, development, production, storage, and recovery of this state’s oil and gas;

~~(13)~~ (14) Adopt rules with respect to the issuance, denial, retention, suspension, or revocation of permits, authorizations, and requirements of this chapter, which rules shall assure that the rules, permits, and authorizations issued by the secretary are adequate to satisfy the purposes of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-7-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*,

§22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code particularly with respect to the consolidation of the various state and federal programs which place permitting requirements on the exploration, development, production, storage, and recovery of this state's oil and gas; and

~~(14)~~ (15) Perform such acts as may be necessary or appropriate to secure to this state the benefits of federal legislation establishing programs relating to the exploration, development, production, storage, and recovery of this state's oil and gas, which programs are assumable by the state.

(d) The secretary shall have authority to visit and inspect any well or well site and any other oil or gas facility in this state and may call for the assistance of any oil and gas inspector or inspectors or supervising inspector whenever such assistance is necessary in the inspection of any such well or well site or any other oil or gas facility. Similarly, all oil and gas inspectors and supervising inspectors shall have authority to visit and inspect any well or well site and any other oil or gas facility in this state. Such inspectors shall make all necessary inspections of oil and gas operations required by §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code; administer and enforce all oil and gas laws and rules; and perform other duties and services as may be prescribed by the secretary. The inspectors shall note and describe all violations of §22-6-1 *et seq.*, §22-6A-1 *et seq.*, §22-8-1 *et seq.*, §22-9-1 *et seq.*, §22-10-1 *et seq.*, and §22-21-1 *et seq.* of this code and promptly report those violations to the secretary in writing, furnishing at the same time a copy of the report to the operator concerned. Any well operator, coal operator operating coal seams beneath the tract of land, or the coal seam owner or lessee, if any, if said owner or lessee is not yet operating said coal seams beneath said tract of land may request the secretary to have an immediate inspection made. The operator or owner of every well or well site or any other oil or gas facility shall cooperate with the secretary, all oil and gas inspectors and the supervising inspector in making inspections or obtaining information.

(e) Subject to the provisions of §29B-1-1 *et seq.* of this code, all records of the office shall

94 be open to the public.

§22-6-29. Operating permit and processing fund; special reclamation fund; fees.

1 (a) There is hereby continued within the Treasury of the State of West Virginia the special
2 fund known as the Oil and Gas Operating Permit and Processing Fund, and the secretary shall
3 deposit with the ~~state~~ State Treasurer to the credit of such special fund all fees collected under
4 §22-6-2(c)(10) and §22-6-2(c)(11) of this code.

5 The Oil and Gas Operating Permit and Processing Fund shall be administered by the
6 secretary for the purposes of carrying out the provisions of this chapter. Fees collected under
7 §22-6-2(c)(11) of this code not used for other purposes may be moved to the Oil and Gas
8 Reclamation Fund that is continued in §22-6-29(b) of this code at the discretion of the Chief of
9 the Office of Oil and Gas.

10 The secretary shall make an annual report to the Governor and to the Legislature on the
11 use of the fund, and shall make a detailed accounting of all expenditures from the Oil and Gas
12 Operating Permit and Processing Fund.

13 (b) In addition to any other fees required by the provisions of §22-6-1 *et seq.* of this code,
14 every applicant for a permit to drill a well shall, before the permit is issued, pay to the secretary a
15 special reclamation fee of \$150 for each activity for which a well work application is required to
16 be filed: *Provided*, That a special reclamation fee shall not be assessed for plugging activities.
17 ~~Such~~ The special reclamation fee shall be paid at the time the application for a drilling permit is
18 filed with the secretary and the payment of ~~such~~ the reclamation fee shall be a condition precedent
19 to the issuance of said permit.

20 There is hereby continued within the Treasury of the State of West Virginia the special
21 fund known as the ~~oil and gas reclamation fund~~ Oil and Gas Reclamation Fund, and the secretary
22 shall deposit with the ~~state~~ State Treasurer to the credit of ~~such~~ the special fund all special
23 reclamation fees collected. The proceeds of any bond forfeited under the provisions of §22-6-1 *et*
24 *seq.* of this code shall inure to the benefit of, and shall be deposited in, ~~such oil and gas~~

25 ~~reclamation fund~~ the Oil and Gas Reclamation Fund.

26 The ~~oil and gas reclamation fund~~ Oil and Gas Reclamation Fund shall be administered by
27 the secretary. The secretary shall cause to be prepared plans for the reclaiming and plugging of
28 abandoned wells which have not been reclaimed or plugged or which have been improperly
29 reclaimed or plugged. The secretary, as funds become available in the ~~oil and gas reclamation~~
30 ~~fund~~ Oil and Gas Reclamation Fund, shall reclaim and properly plug wells in accordance with said
31 plans and specifications and in accordance with the provisions of §22-6-1 *et seq.* of this code
32 relating to the reclaiming and plugging of wells and all rules promulgated thereunder. ~~Such~~ The
33 funds may also be utilized for the purchase of abandoned wells, where such purchase is
34 necessary, and for the reclamation of such abandoned wells, and for any engineering,
35 administrative, and research costs as may be necessary to properly effectuate the reclaiming and
36 plugging of all wells, abandoned or otherwise.

37 The secretary may avail the division of any federal funds provided on a matching basis
38 that may be made available for the purpose of reclaiming or plugging any wells.

39 The secretary shall make an annual report to the Governor and to the Legislature setting
40 forth the number of wells reclaimed or plugged through the use of the Oil and Gas Reclamation
41 Fund provided for herein. ~~Such~~ The report shall identify each such reclamation and plugging
42 project, state the number of wells reclaimed or plugged thereby, show the county wherein such
43 wells are located, and shall make a detailed accounting of all expenditures from the Oil and Gas
44 Reclamation Fund.

45 All wells shall be reclaimed or plugged by contract entered into by the secretary on a
46 competitive bid basis as provided for under the provisions of §5A-3-1 *et seq.* of this code and the
47 rules promulgated thereunder.

NOTE: The purpose of this bill will adequately fund the West Virginia Department of Environmental Protection's Office of Oil and Gas, increasing its inspector corps from nine to 20 inspectors, who will inspect over 60,000 active oil and gas wells.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.